MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2020 / 2021

UCY 4612 – CONVEYANCING PRACTICE

(All Sections / Groups)

26 OCTOBER 2020

Reading Time: 9.00 a.m. – 9.15 a.m.
(15 Minutes)
Answering Time: 9.15 a.m. – 12.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 4 pages with 4 Questions only.

3. Attempt FOUR questions. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are only allowed to bring in CLEAN AND ORIGINAL COPY of the following statutes into the exam venue: (i) Legal Profession Act 1976; (ii) National Land Code 1965; (iii) Housing Development (Control & Licensing) Act 1966 (together with Rules and Regulations incorporating latest amendments); (iv) Strata Titles Act 1985, Rules & Order/Strata Titles (Amendment) Act 2013; and (v) Strata Management Act 2013 & Regulations into the exam venue. "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

QUESTION 1

Jennifer purchased a piece of land located in Melaka in 2010 on which a car show-room was built. In order to expand her business, Jennifer charged this land to Tunai Bank Berhad ('TBB') for a term loan facility of RM500,000 only taken by Jennifer.

Recently, due to Covid-19 pandemic which affected badly on Jennifer's business, Jennifer decided to sell the land and the car show-room to one Doreman for the sum of RM800,000 only. Doreman appointed M/S ABC & Co., Advocates and Solicitors to represent him in this sale and purchase transaction whereas Jennifer chose not to be represented as her husband told her that in order to save the professional fee, Jennifer can appoint the same solicitor to expedite the process of sale and purchase transaction. The Sale and Purchase Agreement ('SPA') will be signed by Jennifer and Doreman next week.

When the SPA and other incidental documents are ready for execution, Doreman informed M/S ABC & Co. that he is currently in Hanoi attending a meeting. M/S ABC & Co. sent the documents to Doreman for execution and the said documents were attested by a local solicitor who is currently practising in Hanoi. Doreman is asking for the discount of the professional fee in which M/S ABC & Co. refused to do so as they claimed that they are subjected to 'no discount rules'. However, M/S ABC & Co. informed Doreman that he is entitled to stamp duty remission under the Penjana Economic Package implemented by the Government of Malaysia recently and M/S ABC & Co. advised Doreman that the total ad valorem stamp duty payable is RM9,000 only after the application of the stamp duty remission. Meanwhile, due to the Movement Control Order ('MCO'), Doreman has to stay in Hanoi for few months and as such he agreed to deposit the full purchase price with M/S ABC & Co. as stakeholders and requested them to put the said purchase price in a fixed deposit account in M/S ABC & Co.'s bank.

Jennifer was a busy corporate woman and she requested M/S ABC & Co. to send over the SPA to her car show-room to sign. Upon execution, Jennifer couriered back all the documents. Natalie, the solicitor from M/S ABC & Co. attested Jennifer's signature. Subsequently, the SPA was dated 30 August 2020. One month after the execution of the sale and purchase agreement, Jennifer passed away intestate. Doreman would like to terminate this SPA because he claims that a contract will be void if the party passes away and he wants to claim back all the purchase price deposited with M/S ABC & Co. as stakeholders. M/S ABC & Co. agreed to refund all the purchase price to Doreman free of interest. Doreman is not happy with it as he claims that he is entitled to the interest accrued for the monies deposited with M/S ABC & Co. as stakeholders.

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Examine M/S ABC & Co., Jennifer and Doreman of their rights, responsibilities and liabilities. Your answer must be based on the Bar Council's Conveyancing Practice Rulings and Checklist, the relevant statutory provisions and decided cases (if any).

(Total: 25 marks)

QUESTION 2

China Wei Sdn. Bhd. (Company No. 12345-A) ('CWSB'), a private limited company incorporated in Malaysia under the Companies Act 2016 is a well-known property developer in Melaka. Recently, CWSB launched a housing project known as MELAKA SEJAHTERA CONDOMINIUM MEWAH.

In order to boost the sales and as part of their strategy to stimulate the property market due to Covid-19 pandemic, CWSB also took part in Home Ownership Campaign (HOC) 2020 to attract more purchasers to purchase the said Property.

Ms. Cash, a *Kiwi* expatriate, who lived in Melaka for more than five years saw an advertisement selling the said Property at RM1,000,000 only. She went to CWSB's sales office and was interested to purchase a unit of high rise condominium known as Parcel No. C-8-8, within Level No. 8 of Building No. Block C measuring approximately 2,000 square feet in area and bearing postal address Unit C-8-8, Melaka Sejahtera Condominium Mewah, Jalan Berjaya, 75450 Melaka together with two units of car park erected over land held under freehold Strata Title PN 18624/M8/8/323, Parcel No. 323, within Storey No. 8, Building No. M8, Lot No. 11327, in the Town of Melaka, District of Melaka and State of Melaka (hereinafter referred to as 'the said Property').

Ms. Cash will sign the Sale and Purchase Agreement with CWSB in the next 14 days. Since this is her first time purchasing a housing property in Malaysia, Ms. Cash intends to apply to Bank Cantik Bhd. ('BCB') for a loan to finance the purchase of the said Property. However, CWSB has obtained a bridging loan of RM250,000 to the said Property.

Ms. Cash has appointed you as her solicitor in this sale and purchase together with loan transactions. As the solicitor for Ms. Cash, illustrate to her the relevant procedure to complete the sale and loan transactions and the required documentation. Would your answer be different if the said Property is currently held under Master Title?

(Total: 25 marks)

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QUESTION 3

Simple Simon, was the original registered proprietor of a piece of property held under qualified tittle H.S.(D) 123456, PT No: 18950 in the Mukim of Mimpi, District of Mimpian, State of Mimpingeri ('the said property') since 24 May 2004. Unknown to him, the Land Office converted the qualified title to the said property to a final title on 25 May 2005 and delivered it to one Fagin Fraud based on a forged Letter of Authorisation. However, the original qualified title deed has at all times been with Simple Simon who has also been paying all the quit rent and assessment every year.

Subsequently, Fagin Fraud approached M/S Lau Yar & Co., Advocates and Solicitors to undertake the transfer of the said property from Simple Simon to himself. He produced a forged Sale and Purchase Agreement dated 16 November 2009 between him and Simple Simon, a forged Power of Attorney purportedly from Simple Simon to Fagin to undertake the sale and transfer and a forged identity card of Simple Simon.

Next, using the forged documents, Fagin Fraud obtained a loan from Peoples Bank Bhd. ('PBB'). PBB appointed Per Guam & Co., Advocates and Solicitors to attend to the loan documentation. A charge was then duly registered over the said property as security. Subsequently, Fagin Fraud defaulted in the payment of the loan and PBB commenced foreclosure proceedings.

It was only then that Simple Simon realised that he had been the victim of a land scam and lodged a police report and caveated the said property.

Simple Simon seeks your advice to sue M/S Lau Yar & Co., Advocates and Solicitors and Per Guam & Co., Advocates and Solicitors and any other parties for negligence and damages for the loss of his land. Explain with reference to relevant laws and cases and the Bar Council's Conveyancing Guidelines and Checklists the possible negligence or otherwise of the respective parties and what measures could have been taken if any, to avoid such land scams.

(Total: 25 marks)

Answer EITHER Question 4 (a) OR Question 4 (b)

QUESTION 4 (a)

Sometime in 2017 Setia Developers Sdn. Bhd. advertised for sale Urban Forest condominiums. Susan placed a booking for one such unit listed at the price of RM650,000. She was required to pay 2% of the purchase price being a sum of RM13,000 as a booking fee. On 12 February 2017, Susan paid the said sum towards the booking fee. Subsequently, she executed a Sale and Purchase Agreement ('SPA') under Schedule H of the Housing Development (Control and Licensing) Regulations 1989.

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Time for completion and delivery of vacant possession was stated to be 36 months from the date of the SPA. The SPA was subsequently stamped and dated 25 March 2017. As per the SPA, delivery of vacant possession was scheduled for 24 March 2020. However, on 18 March 2020, Setia Developers Sdn. Bhd. wrote to all their purchasers informing them that due to the Covid-19 pandemic there would be unavoidable delay in the delivery of vacant possession. They further informed the purchasers, that the government had granted an extension of time for the completion of all construction projects. Consequently, they sought the patience and co-operation of all purchasers under the unexpected circumstances. Vacant possession of the said unit was finally delivered on 10 October 2020. Setia Developers Sdn. Bhd. refused to offer any compensation for late delivery.

Explain to Susan on her legal rights and how she should proceed to enforce her legal rights if any.

(Total: 25 marks)

OR

QUESTION 4 (b)

Bay Li bought a property known as Lot 123 HSD 456, Daerah Melaka Tengah from Van Dor for RM900,000. Van Dor had charged the property to Home Bank Bhd. ('HBB'). There is an outstanding sum of RM350,000 on Van Dor's loan. Bay Li has obtained a housing loan of RM810,000 from People's Bank Bhd. ('PBB'). All legal fees are to be borne by Bay Li. Van Dor is not represented.

You are required to prepare the bills for your professional charges and disbursements for the following. You are not required to provide any calculations. Explain how the fees will be calculated, provide a draft bill with professional fees and a correct list of disbursements.

a. the transfer (10 marks)

b. discharge of charge (5 marks)

c. charge (10 marks)

(Total: 25 marks)

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